

BOARD OF SUPERVISORS

#12.a.

ACTION ITEM

SUBJECT: **Public Safety Committee Report:** Revisit of Proposed County Ordinance Chapter 462.03: Use of Protective Helmet while Operating a Bicycle or Similar Motorized Device

INITIATED BY: Supervisor Lori Waters

ELECTION DISTRICTS: Countywide

Critical Action Date: At the pleasure of the Board

RECOMMENDATION

Public Safety Committee: At its April 23 and July 16, 2007 meetings, the Public Safety Committee voted unanimously (5-0) to recommend that the Board of Supervisor consider adding and adopting the proposed Chapter 462.03 to the county's codified ordinances, requiring the use of protective helmets by children aged 14 years and younger when operating a bicycle or similar motorized device.

BACKGROUND

In 2001, the General Assembly gave localities the authority to adopt ordinances requiring all persons age 14 and under to wear a helmet while riding a bicycle or electric/motorized mobility device on highways, sidewalks, or public bicycle paths. This authority is found in the Code of Virginia, Section 46.2-906.1 which is Attachment 1 to this public hearing item. Loudoun County has not previously acted to adopt such an ordinance.

In 2006, Supervisor Waters requested the Board of Supervisors' Public Safety Committee take up the issue of mandatory bicycle helmets and review any additional burdens this might place upon the staffing or budget of the Sheriff's Office. This issue was brought forward to the Public Safety Committee at its November 20, 2006 meeting. At this meeting, the Sheriff raised some concern about implementing this ordinance since it targets minors. The Sheriff believed that a targeted educational effort was a better approach than levying fines. At that meeting, the Public Safety Committee did not make its recommendation to the Board and directed staff to prepare the actual draft ordinance as a topic of discussion at a future meeting. The draft ordinance language is Attachment 2 to this item and mirrors the State enabling language. The item was brought back to the February 26, 2007 Public Safety Committee Meeting with the draft ordinance. At that meeting, the Committee requested that staff bring back information on whether other neighboring localities had such an ordinance. A full discussion of the ordinance ensued at the Committee's April 23, 2007

meeting with this final piece of information; it is provided as Attachment 3 to this item. The Committee voted unanimously (5-0) to recommend Board adopt the ordinance and place it on a future public hearing agenda. At its May 15, 2007 Business Meeting, the Board of Supervisors voted 5-4 (Delgaudio, Snow, Staton and York – no) to place this item on its July 10, 2007 Public Hearing agenda. This item proposes a new chapter—Chapter 462.03 to the county's codified ordinances, that will require protective helmets for all persons aged 14 years and younger who operate a bicycle or similar motorized device. This is in accordance with the authority established for localities by Virginia Code Section 46.2-906.1.

At its July 10th Public Hearing, the Board of Supervisors voted 8-1 (Supervisor Burton –no) to bring this item back to the July 16, 2007 Public Safety Committee for further discussion prior to any action. Various Board members requested that staff provide them additional information pertaining to the ordinance and its enforcement. Six members of the public spoke at the July 16, 2007 Public Hearing. Five supported the ordinance and one person was opposed.

Proposed Ordinance Details.—The proposed ordinance, if adopted, will require Loudoun County children aged 14 or younger to wear a protective helmet, one that meets the standards promulgated by the Consumer Product Safety Commission, while on any public highway, sidewalk, or public bicycle path doing any of the following activities:

- riding a manual, or electric power-assisted bicycle;
- being carried on a manual or electric power-assisted bicycle,
- riding an electric personal assistive mobility device;
- riding a motorized skateboard or scooter, and
- riding an electric power-assisted bicycle

Proposed Ordinance Fines and Nature of Violations.—If adopted, the fine for offenses will be \$25.00. Under this ordinance, all fines are suspended for first-time violators and for violators who, subsequent to the violation but prior to imposition of the fine, purchase helmets. A violation does not constitute negligence or assumption of the risk on behalf of the offender, nor shall a violation:

- be considered in mitigation of damages of whatever nature,
- be admissible in evidence, or
- be the subject in any action for the recovery of damages arising out of the operation of any bicycle, electric personal assistive mobility device, motorized skateboard or scooter, or electric power-assisted bicycle,

Finally, there is nothing within this ordinance that may change any existing law, rule, or procedure pertaining to any civil action.

ISSUES

The primary issues for the Public Safety Committee and the Board of Supervisors' consideration are weighing the benefits of averting possible head and brain injuries for children 14 years and under who participate in these activities, versus the costs related to the helmets purchased by the residents that do not currently own this equipment; likely compliance rates; and any resource demands placed upon the Sheriff's Office for enforcement.

This ordinance, if adopted, will only apply within the geographic confines of Loudoun County, and not within any of the incorporated towns unless those localities adopt similar ordinances. The age range for the offender (14 years and younger) and the fine (\$25.00) may not be changed without State enabling authority.

At its July 10th Public Hearing, various Board members raised the following issues and/or information requests, which were not limited to the following:

- determining what the standard operating procedures would be for enforcement of this ordinance by the Sheriff's Office;
- reviewing the policies and protocols for other law enforcement agencies within the region that have this ordinance in place;
- determining the exact definitions of certain vehicles in which this ordinance would apply;
- finding out legally whether the Board may discriminate among the various types of vehicles that are prescribed under the ordinance;
- determining a more exact fiscal impact for enforcing the proposed ordinance; and
- reviewing accident information (if available) for Loudoun and other localities

Staff prepared pertinent information for the July 16th Public Safety Committee. Additional information is provided in Attachment 5. The County Attorney's Office believes that the Board may decide which vehicles may or may not be included. See Attachment 4 for full definitions of each type of vehicle under State law (e.g., "electric personal assistive mobility device" translates as a "Segway" type vehicle).

Sheriff's Office staff were invited to be available at the Board Business Meeting to discuss the ordinance and its enforcement.

ALTERNATIVES

The Board of Supervisors may choose not to adopt the Public Safety Committee recommendation to adopt the draft ordinance as outlined within this item, or the Board of Supervisors may choose to modify the ordinance at its discretion (i.e., remove certain vehicles), if legally possible.

FISCAL IMPACT

The fiscal impact for enforcing this ordinance is unknown at this time. Any costs likely will consist of personnel, operations and vehicle maintenance for the deputies who will be responsible for enforcement and the administrative costs for citations. Budget staff will attempt to the best of their ability to gather more concise estimated costs, if possible, between the Committee items' packet mailing date and the date of the Committee meeting.

DRAFT MOTIONS

1. I move that the Board of Supervisors adopt the Public Safety Committee recommendation and adopt the proposed Chapter 462.03 of the Loudoun County codified ordinances, requiring the use of protective helmets while operating a bicycle, or similar motorized device for persons aged 14 years or younger in accordance with the authority granted by Section 46.2-906.1 of the Code of Virginia.

-or-

2. I move an alternative motion(s).

ATTACHMENTS

1. Code of Virginia Section 46.2-906.1
2. Proposed County Ordinance Chapter 462.03
3. Selected Virginia Jurisdictions' Regulation of Protective Helmets for Users of Bicycles and Motorized Vehicles
4. State of Virginia Definitions Section 46.2-100
5. August 4, 2007 Paek Memorandum: Additional Information (Speaker Information, NoVa SOPs, Accident Data)

Contact: Supervisor Lori Waters